

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACTON-AGUA DULCE UNIFIED  
SCHOOL DISTRICT.

OAH CASE NO. 2015030946

ORDER DENYING REQUEST FOR  
CONTINUANCE

On April 17, 2015, the parties filed a joint request to continue the dates in this matter. The complaint was filed March 23, 2015. The hearing is currently scheduled to begin on May 12, 2015. The parties seek new hearing dates of September 14, 2015 through September 17, 2015. Although this is an initial request for continuance, the dates sought for hearing are beyond 90 days from the original hearing date. The parties have not provided good cause for such a lengthy continuance.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. While unavailability of witnesses may be considered good

cause for a continuance, neither side has shown that any or all of the witnesses are unavailable during the months of June, July and August. Without declarations to the contrary, District staff would be considered available while school is in session, through June 17, 2015. Further, to the extent that summer recess is raised as grounds for continuance, the Individuals with Disabilities Education Act does not suspend due process proceedings during summer recesses. The parties are not precluded from seeking a continuance to dates within 90 days from the initial hearing date.

IT IS SO ORDERED.

DATE: April 17, 2015

/s/

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COLE DALTON  
Administrative Law Judge  
Office of Administrative Hearings